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FILED

JUL 09 2020

ANGIE SPARKS, Clerk of District Court
By *Angie Sparks* Deputy Clerk

INDEXED

10 MONTANA FIRST JUDICIAL DISTRICT COURT
11 LEWIS AND CLARK COUNTY

12
13 DEAN MILLS,

14 Plaintiff,

15 vs.

16
17 XYLEM, INC.; XYLEM DEWATERING
18 SOLUTIONS, INC.; and JOHN DOES 1-5,

19 Defendants.

Dept. _____
Judge KATHY SEELEY
Presiding Judge

Cause No. CDW-2020-1064
CV-20-64-H-SEH
COMPLAINT AND
DEMAND FOR JURY TRIAL *pd (2)*

20
21 **STATEMENT OF THE CASE**

22 1. Plaintiff Dean Mills brings this action alleging a violation of the Wrongful Discharge
23 from Employment Act, § 39-2-901, MCA, et seq., related to Defendants' termination of his
24 employment.

25 **JURISDICTION AND VENUE**

26 2. This Court has jurisdiction pursuant to Mont. Const. Art. VII, § 4(1), and § 3-5-302,
27 MCA. Venue is proper in this Court pursuant to §§ 25-2-118, 25-2-121, & 25-2-122, MCA, as
28 the Defendants either reside in or are actively engaged in activities within this judicial district;

850078

1 the employment which is the subject of this litigation was performed within this judicial district;
2 and the wrongful acts or omissions which are the subject of this litigation occurred within this
3 judicial district.

4
5 **PARTIES**

6 3. The Plaintiff, Dean Mills, is and has been at all times herein mentioned a resident of
7 Helena, Montana, in Lewis and Clark County. Plaintiff was employed by the Defendants at their
8 place of business in Helena, Montana.

9 4. The Defendant Xylem, Inc., is an Indiana corporation with its headquarters in New
10 York that is in the business of providing water technology.

11 5. The Defendant Xylem Dewatering Solutions, Inc., is a New Jersey corporation with its
12 headquarters in New Jersey, which makes, rents and sells portable water pumps. Xylem
13 Dewatering Solutions, Inc. is a wholly-owned subsidiary of Defendant Xylem, Inc.

14 6. John Does 1-5 are as-yet-unknown persons, partnerships, corporations, companies,
15 and/or other entities who may have participated in the actions set forth in this Complaint and/or
16 may be liable for the matters set forth in this Complaint.

17
18 **STATEMENT OF FACTS**

19 7. Plaintiff began working for Defendants in 2006. He performed his job satisfactorily,
20 increased the value of the company, and was respected by others at Xylem. Plaintiff successfully
21 completed Defendants' probationary period of employment. Plaintiff served as the regional
22 director for the western United States.

23 8. On September 24, 2019, Plaintiff was abruptly terminated from employment.
24 Defendants gave two reasons for the termination: first that Plaintiff had supposedly disregarded
25 employee safety, and second, that Plaintiff had allegedly provided ineffective leadership.

26 9. The reasons given for the termination were not true. Plaintiff never disregarded
27 employee safety nor did he do or say anything to indicate a disregard for employee safety.
28

1 Plaintiff was well-known at Xylem for being an effective leader. There were no legitimate
2 business reasons justifying Plaintiff's termination.

3
4 **COUNT I (Wrongful Discharge Act – lack of good cause)**

5 10. Plaintiff realleges and incorporates the preceding allegations of this complaint as
6 though they were set forth in full.

7 11. Defendants violated §§ 39-2-903(5) and 39-2-904(1)(b), MCA, because the
8 termination of Plaintiff was not for good cause or legitimate business reason as defined therein,
9 and Defendants thus had no fair and honest cause to justify their action. The reasons given for
10 Plaintiff's termination were false, whimsical, arbitrary, or capricious. Plaintiff had completed any
11 probationary term of employment.

12 12. As a direct and proximate result of Defendants' actions and Plaintiff's termination,
13 Plaintiff has suffered, and continues to suffer, substantial losses in earnings and related benefits
14 which he would have received had Defendants not discharged him in violation of the law, all to
15 his damage according to proof at the time of trial.

16
17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff prays judgment against the Defendants as follows:

19 1. For a money judgment representing damages to the full extent permitted by law,
20 including lost wages and benefits, both present and future, and all other sums of money, together
21 with accrued interest thereon, according to proof;

22 2. For all costs and attorney fees to be incurred, to the full extent permitted by law; and

23 3. Such other relief, legal or equitable, as the Court deems just and proper.
24

25 PLAINTIFF HEREBY DEMANDS TRIAL BY JURY.
26
27
28

Respectfully submitted this 9th day of July, 2020

LAW OFFICE OF PHILIP HOHENLOHE, PLLC

By: 
PHILIP A. HOHENLOHE
(Attorney for Plaintiff)